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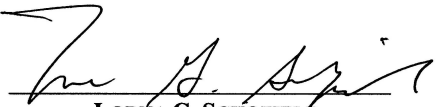
August 5, 2024

VIA ECF

Honorable Lorna G. Schofield
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

Application **GRANTED**. The pre-motion conference scheduled for August 21, 2024, is adjourned to **September 11, 2024, at 4:20pm**. Any pre-motion letters shall be filed by **September 4, 2024**. No further extensions will be granted absent good cause.

Dated: August 6, 2024
New York, New York


LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE

Re: *Carey v. New York State Dep't of Health et al.*, No. 23-cv-3061 (LGS)

Dear Judge Schofield:

This Office represents Defendants the New York State Department of Health and Joshua Vinciguerra ("Defendants") in the above-captioned action. I write to (1) provide a joint letter apprising the Court of the status of discovery, pursuant to the Court's Order dated April 8, 2024 (*see* ECF No. 97), and (2) request on behalf of all parties that the pre-motion conference for dispositive motions, currently scheduled for August 21, 2024 (*see* ECF No. 107), be postponed until after the close of discovery, which is scheduled to conclude on August 28, 2024. This is the parties' second request to adjourn the pre-motion conference on dispositive motions.

Fact discovery closed on April 5, 2024. *See* ECF No. 104.

In an April 24, 2024 Order, the Court extended the deadline for expert discovery to August 7, 2024, and directed the parties to confer on the timing of disclosure of the expert reports and rebuttal reports. ECF No. 99. In a June 5, 2024 Order, the Court granted the parties' first request to adjourn the pre-motion conference for dispositive motions until after the close of discovery. ECF No. 107.

Pursuant to the deadlines agreed between the parties, Plaintiff served expert disclosures and reports of Elizabeth W. Gramigna as a "Human Resources Practices specialist" and Steven J. Shapiro, a Forensic Economist, on June 17, 2024.

On July 2, 2024, Defendants requested a pre-motion conference in anticipation of their motion pursuant to Federal Rules of Evidence 403 and 702 to strike Gramigna's expert report. ECF No. 108. Defendants also requested that their deadlines to depose Gramigna and submit a rebuttal to her report be stayed pending the resolution of any such motion. *Id.*

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On July 12, 2024, the Court denied Defendants' request for a pre-motion conference, without prejudice. ECF No. 111. The Court also ordered that Plaintiff may amend Gramigna's report by August 2, 2024, that Defendants may depose Gramigna and/or submit a rebuttal report, and that any rebuttal reports shall be submitted by August 23, 2024. The Court also extended the deadline for expert discovery from August 7, 2024 to August 28, 2024.

Pursuant to the Court's July 12, 2024 Order, Plaintiff served an amended report from Gramigna on August 2, 2024. Pursuant to the deadlines agreed between the parties, Defendants are due to serve a rebuttal report to Plaintiff's economic expert on August 7, 2024. Defendants will take the deposition of Plaintiff's economic expert on August 9, 2024. The parties have not yet scheduled the deposition of any other expert.

The deadline for all expert discovery, including expert depositions, is August 28, 2024.

As noted above, a pre-motion conference for dispositive motions is scheduled for August 21, 2024, and pre-motion letters for summary judgment motions are due August 7, 2024. *See* ECF No. 105. If the pre-motion conference continues as scheduled, then both Defendants and co-defendants are prepared to file pre-motion letters on August 7, 2024. However, the parties request that the Court postpone the filing of the pre-motion letters for summary judgment motions and the pre-motion conference until after the close of expert discovery because, given staffing constraints, it would be difficult to prepare for the pre-motion conference and brief summary judgment concurrently with conducting expert discovery. In addition, my colleague will be out of the office on August 21, 2024.

Thank you for Your Honor's time on this matter.

Respectfully submitted,

/s/ Erin R. McAlister
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